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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/261,329	03/03/1999	KIM VILBOUR ANDERSEN	4887.204-US	7632

25908 7590 12/04/2001

NOVOZYMES NORTH AMERICA, INC.
C/O NOVO NORDISK OF NORTH AMERICA, INC.
405 LEXINGTON AVENUE, SUITE 6400
NEW YORK, NY 10174

EXAMINER

SLOBODYANSKY, ELIZABETH

ART UNIT	PAPER NUMBER
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1652

DATE MAILED: 12/04/2001

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/261,329Applicant(s)
Andersen et al.Examiner
Elizabeth SlobodyanskyGroup Art Unit
1652**THE PERIOD FOR RESPONSE:** [check only a) or b)]

- a) ☐ expires _____ months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on Nov 21, 2001 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Nov 21, 2001 has been considered with the following effect, but is **NOT** deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
 - ☒ they raise the issue of new matter. (See note below).
 - ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: see attached

☒ Applicant's response has overcome the following rejection(s):

112, 2nd, of claims 37, 42, 43, 74-78

- ☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☒ The affidavit, exhibit or request for reconsideration has been considered but does **NOT** place the application in condition for allowance because: see attached
- ☐ The affidavit or exhibit will **NOT** be considered because it is not directed **SOLELY** to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):
- Claims allowed: _____
- Claims objected to: _____
- Claims rejected: 37, 42, 43, 74-78
- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Other

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Attachment to the Advisory action (Paper #17)

The AF amendment filed November 21, 2001 amending claims 75 and 76 has not been entered because the scope of the claims has been changed. Claim 75 includes now the specific mutation C86G support for which in the specification is not indicated.

Response to Arguments

Applicant's arguments filed November 21, 2001 have been fully considered but they are not persuasive.

With regard to the restriction requirement the number of patents in class 435 was mentioned to make a point that not all products classified in the same class should necessarily belong to a single invention. In this case, while products are classified in the same class, 435, they are patentably distinct as products with different structure, function and properties.

Applicants argue with regard to the objection of claim 74 that "claim 37 is not limited to variants of the cellulase of SEQ ID NO:1". Applicants do not define to what variants claim 37 is limited. This argument renders the metes and bounds of claim 37 unascertainable.

Applicant's arguments with regard to the 112, 1st paragraph, rejection are not persuasive because "comprising " is open language. As result of its use, the claim does

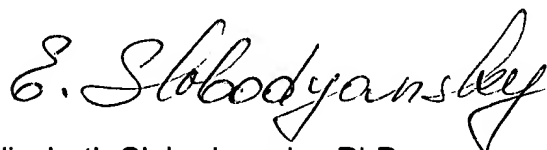
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not impose any structural limitations and reads on any structure that is not necessarily homologous with SEQ ID NO: 1. The genus of such cellulases has not been described. The scope is not enabled because the claim reads on any structure that is not necessarily homologous with SEQ ID NO: 1. The specification does not teach how to make a modified endoglucanase from a parent enzyme of unknown structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Slobodyansky whose telephone number is (703) 306-3222. The examiner can normally be reached Monday through Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy, can be reached at (703) 308-3804. The FAX phone number for Technology Center 1600 is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Center receptionist whose telephone number is (703) 308-0196.

A handwritten signature in cursive script that reads "E. Slobodyansky".

Elizabeth Slobodyansky, PhD
Primary Examiner

November 29, 2001